

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

United States of America :
 :
 v. : File No. 1:03-cr-110-jgm-1
 :
 Philip James Katon :

OPINION AND ORDER
(Docs. 38, 40 and 49)

On April 4, 2011, Defendant Philip Katon filed a *pro se* motion seeking clarification of the terms of his supervised release. (Doc. 38.) Katon was sentenced in 2004 to 51 months in prison, to be followed by two years of supervised release. Shortly before Katon's release date in 2008, the United States Attorney's Office for the Eastern District of North Carolina filed a Certification of Sexually Dangerous Person under 18 U.S.C. § 4248. The Certification stayed Katon's release from prison "pending completion of the procedures" for a civil commitment. 18 U.S.C. § 4248(a).

In his motion for clarification, Katon argues that his period of supervised release should have begun as of his original release date, and that a subsequent civil detention cannot toll the starting date. If the Court were to accept Katon's position, the two-year supervised release period would be deemed to have expired in 2010.

Recent filings indicate that Katon has now abandoned his argument, and has agreed not to pursue his pending motion.

Specifically, on August 29, 2011, the government submitted to the Court an amended settlement agreement dated August 26, 2011 ("Settlement Agreement"). The Settlement Agreement was entered into by Katon in the course of the civil commitment proceeding, and sets forth, among other things, Katon's stipulation that "his 'release' from imprisonment was 'stayed'" by that proceeding, "and that, consequently, his term of supervised release has not commenced." (Doc. 49-3 at 2.) The Settlement Agreement also provides that Katon will "no longer pursue" his "Motion to Clarify Terms of Supervised Release [filed] in the [instant] Vermont criminal case on April 4, 2011." (Id.)

On August 26, 2011, Senior District Judge W. Earl Britt of the United States District Court for the Eastern District of North Carolina found that Katon "was fully competent to enter into the Settlement Agreement and that he knowingly and voluntarily did so after having an adequate opportunity to confer with counsel" (Doc. 49-5 at 1.) Judge Britt also accepted the government's motion to dismiss with prejudice the certification of Katon as a sexually dangerous person, and ordered Katon's release "forthwith from the Federal Bureau of Prisons." (Id. at 2.)

In light of the Settlement Agreement entered into by Katon and the government, the Court finds that Katon's motion to clarify the terms of his supervised release is now moot.

According, the government's motion to dismiss (Doc. 49) is GRANTED, and Katon's pending motions to clarify (Doc. 38) and for appointment of counsel (Doc. 40) are DENIED.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 6th day of October, 2011.

/s/ J. Garvan Murtha
Honorable J. Garvan Murtha
United States District Judge